

**MINUTES
REPRESENTATIVE TOWN MEETING
SEPTEMBER 27, 2004**

RECEIVED

OCT - 4 2004

TOWN CLERK'S OFFICE
DARIEN, CT

CALL TO ORDER

A Regular Meeting of the Representative Town Meeting was held on Monday, September 27, 2004 at the Darien Town Hall Auditorium, Donna Rajcewski, Town Clerk, called the meeting to order at 8:20 p.m.

Upon Roll Call, the following members were present:

From District I, there were 9 members present, 8 absent.
From District II, there were 9 members present, 8 absent.
From District III, there were 7 members present, 9 absent.
From District IV, there were 14 members present, 3 absent.
From District V, there were 9 members present, 4 absent.
From District VI, there were 11 members present, 5 absent.

The absentees from District I were: Caldwell, Cook, D'Andrea, Gartland, Sauerberg, Scudder, Stewart, Wells.

The absentees from District II were: E. Clark, L. Clark, Cohen, Coley, Goersch, Neville, Nottebohm, Warren.

The absentees from District III were: Bosee, Concannon, Coyle, DeSoiza, Lamendola, Luongo, Moore, Morton, Young.

The absentees from District IV were: Davis, Sohns, Waters-Bieluch.

The absentees from District V were: D'Arinzo, Patrick, Ritchey, Rubin.

The absentees from District VI were: Bletzer, Carroll, Farren, Mageras, Weeks.

The Moderator, Karen Armour, assumed the Chair.

ACCEPTANCE OF THE AGENDA

**** THE AGENDA WAS ACCEPTED BY UNIVERSAL CONSENT.**

ANNOUNCEMENTS

First Selectwoman Klein welcomed everyone back after the summer and read the following prepared remarks:

CL&P GLENBROOK CABLES PROJECT

Immediately following this meeting there will be a discussion regarding the Glenbrook Cables Project with members from Districts 1,3 and 5. This meeting was organized by Seth Morton. I will be on hand to answer any specific questions.

I would like to update the RTM on the activity with respect to this project on behalf of the Town.

RTM

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As you know the Town has retained Larry Golden from Pullman and Comley in Hartford. He has years of experience representing towns before the Siting Council. The Town has retained an attorney to represent us at Siting Council Hearings so that we will be actively involved in this process. Our goal is to minimize the impact this project may have on the Town.

To date - Attorney Golden represented the Town in New Britain at the pre-evidentiary hearing held last month. We have since filed our first set of interrogatories to CL&P and expect their reply by early next week. The nature of the interrogatories is as follows:

- 1) Follow up on the discussion in the application on "horizontal directional drill" and "jack and bore" technology.
- 2) Whether these or related technologies have been explored or used along the watercourse or railroad crossings.
- 3) Specific evaluation and consideration of the use of boring technology.
- 4) Their awareness of future CL&P projects along the proposed routes within the next 10 years and other projects along the proposed routes over the next 5 years.

It is our opportunity on October 5th to speak at the Siting Council Public Hearing in the auditorium at 7:00. The Siting Council wants to hear from us. Please participate and spread the word to your constituents.

BUILDING PERMITS

The Tax Assessor's Office has reviewed over 1600 properties and has determined by thorough investigation that approximately 140 houses may be affected by a change in their assessed value based on work done to the dwelling. The details are being reviewed on the 140 properties. This will continue to be work in progress given the high volume of building permits issued annually. Right now I can say the Tax Assessor believes we are on top of the matter. If anyone has any information that you believe we are unaware of, please do not hesitate to contact my office or the Tax Assessor's Office. Those properties will then be reviewed.

THE TOWN PLAN OF CONVERSATION AND DEVELOPMENT

The draft chapters are on line. I encourage you to go to the Town website and comment on the draft. Please inform your constituents to do the same. There will be public hearings on the draft plan.

UP AND COMING MEETINGS

Tuesday, September 28th at the Darien Library from 6:30-8:00 First Selectwoman's Night Out.

Wednesday, September 29th at the Darien Town Hall Auditorium at 8:00 Public Informational Meeting on the proposed Shellfish Ordinance.

Tuesday, October 5th in room 206 at 5:30 Board of Selectmen Meeting. **Tuesday, October 5th** in the auditorium at 7:00 the Siting Council Public Hearing on CL&P Glenbrook Cables Project.

Thursday, October 7th continuation of BoS meeting from the 5th at 7:00. **Monday, October 18th** at the Darien Library 7:30 Board of Selectmen. **Monday, October 25th** in the auditorium at 8:00 Public Hearing on Parking Fee increases; draft ordinance on Barbershops, Nail Salons etc; Public Pools.

Draft agendas will be posted on the web tomorrow.

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COMMUNICATION

Please let me know how I can help keep you involved and informed.

Donna Rajczewski, Town Clerk, reported on the status of the RTM portion of the November 2 ballot. Though there are many vacancies on the RTM for which there are an insufficient number of candidates, District IV does have 10 people running for 8 spots. While the deadlines have passed for getting on the ballot, an individual may apply to be a write-in candidate. If any of you knows someone who might be interested in write-in candidacy, that person must apply in person in the Clerk's Office by noon November 1, 2004. To recap the RTM ballot: District I has 11 vacancies; they have 6 candidates; District II has 10 vacancies; they have 6 candidates; District III has 8 vacancies; they have 7 candidates; District V has 9 vacancies; they have 5 on the ballot and 1 write-in candidate. District VI has 11 vacancies; they have 7 candidates. The Moderator pointed out that a write-in candidate must receive at least 25 votes in order to be elected.

APPROVAL OF MINUTES OF JUNE 28, 2004 MEETING

**** THE MINUTES WERE APPROVED BY UNIVERSAL CONSENT.**

04-16

CONSIDERATION AND ACTION ON RESOLUTION TO ACCEPT PRE-DISASTER MITIGATION PLAN

The Moderator noted that this item had been withdrawn. There will be a Special Meeting held on Tuesday, October 19th, at which this item will be taken up.

04-15

CONSIDERATION AND ACTION ON RESOLUTION TO AUTHORIZE THE ACCEPTANCE OF ADDITIONAL GIFT FOR HIGH SCHOOL TURF FIELD

**** LOIS SCHNEIDER, DISTRICT I, VICE CHAIR OF THE EDUCATION COMMITTEE, MOVED:**

WHEREAS, pursuant to Section 2.3 of the Code of the Town of Darien, the Board of Selectmen is empowered on behalf of the Town of Darien to accept gifts, provided gifts do not have a value in excess of Ten Thousand and 00/100 Dollars (\$10,000.00); and

WHEREAS, pursuant to Section 2.3 of the Code of the Town of Darien, said gifts in excess of Ten Thousand and 00/100 Dollars (\$10,000.00) may be accepted with action by the Representative Town Meeting of the Town of Darien; and

WHEREAS, on April 26, 2004 the Representative Town Meeting of the Town of Darien authorized the acceptance of gifts in the amount of One Million Fifty Thousand and 00.100 Dollars (\$1,050,000.00) for the purpose of the Board of Education installing synthetic turf on the Darien High School Football Field and for restructuring the surrounding track; and

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WHEREAS, on April 26, 2004, the Representative Town Meeting of the Town of Darien appropriated One Million Three Hundred Thousand and 00/100 dollars (\$1,300,000.00) for the purpose of the Board of Education installing synthetic turf on the Darien High School Football Field and for restructuring the surrounding track; and

WHEREAS, additional gifts have been proposed for the installation of synthetic turf on the Darien High School Football Field, for restructuring the surrounding track and for related improvements to the athletic facilities; and

WHEREAS, there is a desire to appropriate additional funds for the purpose of installing synthetic turf on the Darien High School Football Field, for restructuring the surrounding track and for related improvements to the athletic facilities.

BE AND IT IS HEREBY RESOLVED that the Representative Town Meeting of the Town of Darien accepts with thanks additional gifts up to One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) through the Darien High School Stadium Field Committee to fund the installation of synthetic turf on the Darien High School Football Field, for restructuring the surrounding track and for related improvements to the athletic facilities.

BE AND IT IS FURTHER RESOLVED that the Board of Finance and the Representative Town Meeting of the Town of Darien appropriate an additional sum up to One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) from funds received from the Darien High School Stadium Field Committee for the purpose of the Board of Education installing synthetic turf on the Darien High School Football Field, for restructuring the surrounding track and for related improvements to the athletic facilities. This sum to be appropriated to the Board of Education Reserve Fund for Capital Non-recurring Expenses.

**** THE MOTION WAS SECONDED FROM THE FLOOR.**

Marcia Pontius, District IV, read the report of Seth Morton, Chairman of Finance & Budget (attached).

Sallie Raleigh, Chairman of the Board of Education, said that the Board of Education asks that this funding be put into Capital. She hoped that the RTM would vote to approve this request.

William Tamme, District VI, said he was in favor of the synthetic field and appreciates the work of the Friends. He asked if the committee had \$150,000 now or if they were going to embark on a fundraising effort? Mrs. Raleigh said they have not yet received the full \$150,000 but anticipate, through matching funds, that it will come in. The resolution is to accept up to \$150,000.

Mr. Tamme asked if the RTM could vote to receive gifts that have not yet been given. Town Attorney Fox said he and Mr. Hovell had spoken. This is limiting what can be received and spent. Mr. Tamme asked if the Town would have to spend \$150,000 even if it only receives \$1,250. Town Attorney Fox reiterated that the resolution says up to \$150,000.

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**** ITEM 04-15 CARRIED ON A RISING TALLY VOTE OF 59 IN FAVOR, 0
OPPOSED, 0 ABSTENTIONS.**

**** UPON MOTION MADE AND SECONDED FROM THE FLOOR, IT WAS
UNANIMOUSLY VOTED TO ADJOURN AT 8:50 P.M.**

Respectfully submitted,

Cheryl Telesco
Telesco Secretarial Services

APPENDIX

DISTRICT I

CALDWELL	04-15
COBURN	ABSENT
COOK	YES
D'ANDREA	ABSENT
GARTLAND	ABSENT
GRIMES	ABSENT
GRUPPO	YES
HOYT	YES
PUZYK	YES
SAUERBERG	YES
SCHNEIDER	ABSENT
SCUDDER	YES
SICKINGER	ABSENT
SMITH	YES
STEWART	YES
WELLS	ABSENT
WEIHS	ABSENT
	YES

DISTRICT III

BARLOW	YES
BAYNE	YES
BOSEE	ABSENT
CONCANNON	ABSENT
COYLE	ABSENT
DESOIZA	ABSENT
GROGAN	ABSENT
HELMS	YES
KELLY	YES
LAMENDOLA	YES
LUONGO	ABSENT
MARONEY	ABSENT
MOORE	YES
MORTON	ABSENT
SMITH	ABSENT
YOUNG	YES
	ABSENT

DISTRICT II

BOLOTIN	04-15
CLARK, E.	YES
CLARK, L.	ABSENT
COHEN	ABSENT
COLEY	ABSENT
GOERSCH	ABSENT
GRAY	YES
HOWE	YES
MAGIDA	YES
MAGUIRE	YES
NEVILLE	ABSENT
NOTTEBOHM	ABSENT
SULLIVAN, A.	YES
SULLIVAN, C.	YES
THORNE	YES
WARREN	ABSENT
WEICKER	YES

DISTRICT IV

ARTINIAN	YES
CAMERON	YES
DAVIS	ABSENT
GEBAUER	YES
KEMP	YES
KIMBRELL	YES
MILLAR	YES
MORRISON	YES
PONTIUS	YES
PRATT	YES
RAYHILL	YES
SAVAGE	YES
SCHOONMAKER	YES
SOHNS	ABSENT
WATERS-BIELUCH	ABSENT
WEYHE	YES
WHITTIER	YES

DISTRICT V

BALIAN	YES
D'ARINZO	ABSENT
DOYING	YES
GALVIN	YES
HENDRICKSON	YES
KRATKY	YES
PATRICK	ABSENT
PEGLER	YES
RITCHEY	ABSENT
RUBIN	ABSENT
RUSSELL	YES
STEGELMANN	YES
WENGER	YES

04-15**DISTRICT VI**

ANDREW	YES
ARMOUR	
BERL	YES
BLETZER	ABSENT
CARROLL	ABSENT
CONOLOGUE	YES
FARREN	YES
FINGAR	YES
MAGERAS	ABSENT
PLEHATY	YES
RICCARDO	YES
SWENSON	YES
TAMME	YES
WEEKS	ABSENT
WEISMILLER	YES
WHITEHEAD	YES

04-15

Report and Speech to the RTM on September 27, 2004

My name is Lois Schneider and I am Vice Chair of the Education Committee.

With no objection, I would like to waive the reading of resolution 04 – 15 that was in the package sent to all members.

I will move the resolution. May I have a second?

Earlier this evening, the Education Committee of the RTM, with 8 of 15 members present, met with representatives of the Board of Education and the Administration. We thank them for joining us. We voted unanimously to recommend this resolution for your approval.

The resolution provides for the acceptance and appropriation of up to \$150,000 in additional funds from the Darien High School Stadium Field Committee for the synthetic turf for the football field, restructuring the track, and related improvements. This gift is in addition to the \$1,300,000 that has been previously discussed and approved at the RTM meeting on April 28, 2004.

In our meeting, we received an update on the project. The turf field is on schedule to meet its goal of the end of October. With the majority of the extensive prep work complete, the turf will be rolled out next week. The Home Team bleachers are being installed now.

The additional appropriation up to \$150,000 from the Stadium Committee comes from matching grants and other contributions that have been received. These funds will be used for incremental items such as a new scoreboard, sidewalk, fencing, and other things to make this a truly first class facility.

The Education Committee recommends that you support this resolution to enhance the improvements that are underway.

Thank you very much.

Respectfully submitted,

Lois J. Schneider

**Town of Darien
Representative Town Meeting
Finance and Budget Committee**

September 27, 2004

Report to the Representative Town Meeting

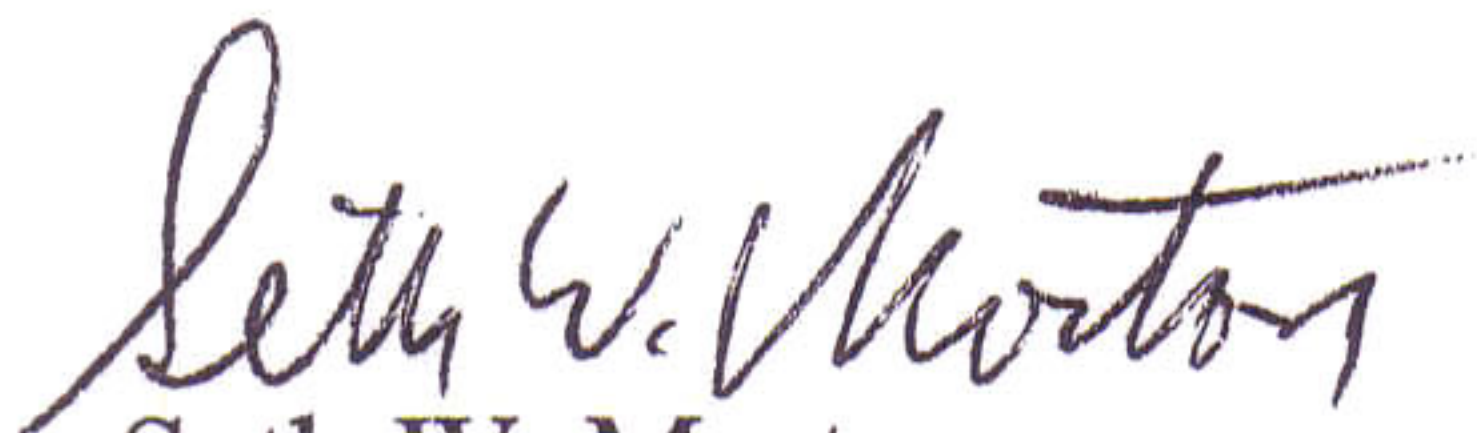
Item 04-15- Resolution to Accept a Gift for the DHS Field

On September 20 with 9 of 14 members present the Finance and Budget Committee met to consider Item 04-15 on the Warning for the September 27 meeting of the Representative Town Meeting. By way of review, The funding of the new turf field at DHS is an exercise in creative financing which allows the Town to greatly improve its field capacity and lower its maintenance costs. It also allows for the construction of a new track.

The creative financing comes from the combination of funds raised by the Town and by contributions from private citizens. In these tight times this type of cooperative venture will become more and more important. For this item private citizens originally raised \$1,050,000 while the Town put up \$250,000 for a total of \$1,300,000. The field and track have a useful life of about 12 years and the replacement and resurfacing cost for the track cost will exceed the savings in maintenance by about \$150,000. That being said the field utilization capacity goes up dramatically, which is important for Darien.

This additional gift comes about because the costs to construct the field and the track are higher than expected by about \$150,000. Based on these factors the F&B Committee voted unanimously to recommend acceptance of this gift.

Respectfully submitted,


Seth W. Morton
Chairman

**(04-16) RTM RESOLUTION APPROVING
PRE-DISASTER MITIGATION PLAN**

Primary – Public Safety

WHEREAS, the Federal Disaster Mitigation Act of 2000 requires municipalities to approve a Pre-Disaster Mitigation Plan in order to be eligible for specific Federal funds; and

WHEREAS, a Pre-Disaster Mitigation Plan has been prepared for Connecticut Southwestern Region including Darien; and

WHEREAS, the Federal Government has requested municipalities to exercise their best efforts to comply with said Federal Regulations.

NOW THEREFORE, BE AND IT IS HEREBY RESOLVED that the Representative Town Meeting of the Town of Darien hereby adopts the Pre-Disaster Mitigation Plan prepared by the Southwestern Regional Planning Agency as its Mitigation Plan in accordance with said Federal Regulations.

Darien

Existing Mitigation Strategies

The Town of Darien uses regulations as a proactive means to protect the normal functioning of the natural drainage systems and to prevent inappropriate development in flood plains and coastal areas. For instance, the land-use regulations require development in flood hazard and coastal high hazard areas to be designed by a professional engineer to minimize flood damage. In addition, all new construction and substantial improvements of residential structures are required to have the lowest floor including basement elevated to at least one foot above base flood level. Structures used for the sole purpose of vehicle storage or other storage are required to be designed to automatically equalize hydrostatic flood forces on exterior walls and allow for entry and exit of flood waters. Furthermore, all new construction and substantial improvements are required to have the space below the lowest floor constructed with breakaway walls intended to collapse under stress without jeopardizing the structural supports of the structure. Such space can only be utilized for building access, parking of vehicles, and/or storage. In regards to floodways, regulations prohibit all development that would result in any increase in flood levels. The regulations also call for the conservation, preservation and protection of wetlands, marshes, streams, rivers and ponds as natural resources to avoid flooding, erosion, and pollution. In addition, all filling and regrading of more than 20 cubic yards cannot extend within 50 feet of wetlands, watercourse, stream or ponds, river or tidal waterfront unless specifically authorized by Environmental Protection Committee. As part of the subdivision review process, applicants are required to provide a soil erosion and sediment control plan that meets Connecticut guidelines.

In the Coastal High Hazard Zones, all new construction and substantial improvements to the bottom of the lowest structural member must be elevated to at least one foot above the base flood elevation and attached or anchored to the pile or column foundation to resist floatation or collapse and lateral movement due to the effects of wind and water loads acting simultaneously. In addition, the regulations for Coastal High Hazards Zones prohibit the use of fill for structural support of buildings. These land-use regulations are described in detail in the *Zoning Regulations* and *Subdivision Regulations* available through Darien Town Hall.

Besides regulations, Darien takes a proactive approach towards addressing drainage issues. For instance, Public Works, when possible, examines and clears public storm drains and grates of debris during periods of rainfall, snowfall, and storms. In addition, Public Works stocks sand bags for mitigating flooding conditions. Furthermore, Public Works coordinates studies to address intricate problems as exemplified by the recent studies that examined localized flooding of Heights Road Business District and for repair to Gorhams Pond Dam sluice gates.

Challenges

1. Due to migration, many Darien residents have not experienced a flood, hurricane or other natural disaster and may underestimate Darien's vulnerability to natural hazards.
2. The Darien Waste Water Treatment Facility is located in a 100-year flood zone and may cause the area to become contaminated in the event of a flood.
3. Darien has areas that experience repetitive losses due to flooding, in particular Noroton and Tokeneke. Darien has limited options to address drainage issues in Noroton and Tokeneke

because these areas are private associations and are served by various privately held roads and drainage systems.

4. The sluice gates on the Gorhams Pond Dam are in need of repair. Darien sponsored an engineering study for repair to the sluice gates to restore their ability to regulate the open channel flow.
5. A Darien-sponsored study found that localized flooding of Heights Road Business District was attributable to an undersized drainage culvert under I-95. This culvert cannot handle peak storm flows from upstream. The study also looked into existing conditions downstream to evaluate the potential for downstream flooding once the culvert under I-95 was corrected.

Proposed Mitigation Strategies

Goal 1. *Reduce the loss of life and property and economic consequences as a result of flooding, high winds, severe winter storms and dam failure.*

Objective 1. Educate the public in the areas of natural disasters, mitigation activities and preparedness.

Supporting Tasks	Who	When	Priority
1 Visit schools and educate children about the risks of floods and other natural hazards and how to prepare for them.	Police, Fire	Annual	High
2 Make available literature on natural disasters and preparedness at Darien Town Hall and at the Darien Library.	Building, Library	2005-2010	High
3 Make available information on natural disasters and preparedness website with links to state and federal resources.	OEM	Annual	High

Objective 2. Ensure proper functioning of critical facilities and reduce business disruptions as a result of floods.

Supporting Tasks	Who	When	Priority
1 Investigate and make plan for any necessary changes to the Darien Waste Water Treatment Facility to ensure sanitary conditions in the area during floods.	Public Works,	2005-2010	Medium
2 Replace drainage culvert under I-95 to handle peak storm flows and make any other necessary improvements downstream to prevent flooding in business districts.	Public Works, ConnDOT	2005-2010	Medium
3 Inspect and maintain drainage catch basins and systems to provide adequate and optimal flow.	Public Works	Annual	High

Objective 3. To ensure proper maintenance on Darien dams and those impacting the Region's natural drainage system.

Supporting Tasks	Who	When	Priority
1 Repair the sluice gates on the Gorhams Pond Dam.	Public Works	2005-2010	Medium

Objective 4. Improve the ability of Darien residents to prepare and respond to approaching severe weather.

Supporting Tasks	Who	When	Priority
1 Implement a reverse 911 or Community Alert System that notifies Darien residents and business owners about approaching severe weather.	Police, Fire	2005-2010	High
2 Review and update Darien's GIS system with information on Natural Disasters that can be accessed for emergency as well as planning.	Planning & Zoning, OEM	2005-2010	High

**(04-17) RTM RESOLUTION APPROVING CONTRACT
BETWEEN THE DARIEN ADMINISTRATORS ASSOCIATION
AND THE DARIEN BOARD OF EDUCATION**

**Primary – Education
Secondary F & B**

WHEREAS, on September 20, 2004, the Negotiating Subcommittees of the Darien Board of Education and the Darien Administrators Association arrived at an agreement covering salaries and other conditions of employment for the Darien Administrators; and

WHEREAS, the contract covers a three-year period commencing on July 1, 2005; and

WHEREAS, the Darien Administrators Association ratified this agreement on September 20, 2004; and

WHEREAS, the Board of Education of the Town of Darien approved this agreement on September 28, 2004; and

WHEREAS, the Collective Bargaining Agreement signed by the Darien Board of Education and the Darien Administrators Association has been filed with the Darien Town Clerk as required by law on September 30, 2004; and

WHEREAS, pursuant to §10-153d(b) of the Connecticut General Statutes, the terms of said contract shall be binding on the legislative body of the local school district unless said body rejects said contract at a special meeting called and convened for said purpose within thirty (30) days of the filing of the contract.

NOW THEREFORE AND BE IT RESOLVED that the Representative Town Meeting of the Town of Darien hereby approves the Collective Bargaining Agreement between the Darien Board of Education and the Darien Administrators Association covering salaries and other conditions of employment for the Darien Administrators for the three-year term beginning July 1, 2005. Said terms and conditions are more specifically set out in the contract filed with the Darien Town Clerk on September 30, 2004.

**DARIEN BOARD OF EDUCATION REPORT TO THE RTM
2005-2008 CONTRACT SETTLEMENT WITH
DARIEN ADMINISTRATORS ASSOCIATION**

On September 20, 2004, the Negotiating Subcommittees of the Darien Board of Education and the Darien Administrators Association arrived at an agreement covering salaries and other conditions of employment for the Darien Administrators. The Administrators Association represents 20 administrators including Principals, Assistant Principals, the Director and Assistant Directors of Special Education, and the Director of Physical Education, Arts, and Summer and Continuing Education.

The contract covers a three-year period commencing on July 1, 2005. This agreement concluded a bargaining process which began, as mandated by Connecticut General Statutes 10-153d(a), with a joint meeting of the Board of Education and the Board of Finance. The purpose of this meeting was to share information and to discuss bargaining goals.

The contract settlement itself was reached following a series of meetings this summer between the Board of Education Negotiations Subcommittee, Mr. Hovell, Chair, Darien Board of Finance, Dr. Kramer, Superintendent of Schools, Ms. Montague, Board of Education Director of Finance and the negotiations team for the Administrators. The Board of Education Negotiations Subcommittee consisted of Board Members Sallie Raleigh, John Boulton, and Adele Conniff. The Darien Administrators Association ratified this agreement on September 20, 2004; the Board of Education approved it on September 28, 2004.

Summary of the Agreement

Salaries

Salary increases are as follows:

July 1, 2005	an increase of 4.0%
July 1, 2006	an increase of 4.0%
July 1, 2007	an increase of 4.0%

Health Insurance

The district will realize cost savings of approximately \$27, 408. The employee's premium share will increase from 10% to 13%/14%/15% over the life of the contract. The contract substitutes an Anthem PPO Comprehensive Medical Plan with deductibles of \$250/\$500/\$750 and Co-insurance maximums of \$1500/\$3000/\$4500 for the Anthem Century Preferred PPO. The plan will pay 80% of in-network covered services and 60% of out-of-network covered services. There is no fertility coverage provided.

Prescription Drug co-pays have been increased from \$7.00 per generic prescription and \$15.00 per brand name prescription to a 3-tier plan, (no coverage for fertility drugs) with co-pays as follows:

At retail for dosages up to
34 days

Generic	\$10.00
Formulary:	\$20.00
Non-Formulary:	\$30.00

Via Mail Order for dosages up to
90 days

Generic	\$20.00
Formulary	\$40.00
Non-Formulary	\$60.00

Total Cost of the Settlement

The total cost of the settlement comes to yearly increases of:

2005-2006	3.11%
2006-2007	3.11%
2007-2008	3.11%

Contract Language

The contract language has been changed in Article III, Section I to read, "The normal work year for administrators will be 12, 11, or 10 months, dependent upon the agreement between the Board and Association at the time that a position is revised or created. The term of employment for new positions will be determined by agreement between the Board and the Association." This language has been revised to reflect the fact that some administrative positions are hired for and paid for at less than a 12-month rate.

Summary

The Board of Education believes that this agreement with the Darien Administrators Association successfully balances our fiscal responsibility to the community with our educational responsibility to continue to provide outstanding leadership of the school system. The net contract cost increase of 3.11% compares favorably with administrative agreements achieved throughout Connecticut. It permits Darien to remain competitive as we recruit outstanding administrators to our school system in the future.

We are pleased to submit this report of the 2005-2008 Darien Administrators Association contract settlement to the RTM and request that you permit it to stand as negotiated.

**(04-12a) RTM RESOLUTION APPROVING LEASE
WITH THE DARIEN BOAT CLUB, INCORPORATED**

Primary – Park & Recreation

WHEREAS, the Parks and Recreation Commission has received and approved a request from the Darien Boat Club, Incorporated to amend and modify an existing lease by and between the Town of Darien and said Club by adding to said lease the property known as the Dinghy area to the lands that said Club currently manages; and

WHEREAS, the area to be added to said lease is more particularly described in the Schedule B attached to the proposed amendment and modification; and

WHEREAS, any such modification and amendment of a lease requires the approval of the Board of Selectmen and the Representative Town Meeting; and

WHEREAS, the Board of Selectmen has approved this first amendment and modification of lease at its regularly scheduled meeting of September 20, 2004.

NOW THEREFORE, BE IT RESOLVED THAT the Representative Town Meeting of the Town of Darien hereby approves this first amendment and modification of said lease by and between the Town of Darien and the Darien Boat Club, Incorporated.

CURTIS, BRINCKERHOFF & BARRETT, P.C.

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\$ALSO ADMITTED IN MASSACHUSETTS

T. WARD CLEARY

1946-1988

JOHN D. HERTZ

1957-2002

JANE F. DONOVAN

1967-2003

RICHARD L. BRINCKERHOFF

FREDERICK M. TOBIN

RETIRED

PATRICIA M. GAUG*†

THERESA M. CRIBBIN*

OF COUNSEL

September 10, 2004

Evonne Klein, First Selectwoman
Town Hall
2 Renshaw Road
Darien, CT 06820

re: Darien Boat Club, Incorporated

Dear Evonne:

The Darien Parks & Recreation Commission, the Board of Selectmen and a Committee of the Representative Town Meeting have had under consideration for some time an amendment and modification of a lease by and between the Town of Darien and the Darien Boat Club, Inc. In May of 2003, the Parks & Recreation Commission approved the Darien Boat Club's request to attach additional spaces to its dry-boat storage facility in front of the Club at Pear Tree Point Beach. A version of an amendment and modification was approved by the Board of Selectmen in December of 2003. This version of the lease was rejected by the Parks & Recreation Committee of the RTM. A modified version of the amendment and modification of lease has been submitted to the Board of Selectmen for its review and consideration.

The property in question was deeded to the Town by William Ziegler in 1950. I understand that for sometime prior to 1950, the Boat Club leased property in the Pear Point area on a year-to-year basis. In 1967, a twenty-year lease was entered into between the Town and the Boat Club. This was modified slightly in 1968. On May 27, 1987, a new twenty-year lease was entered into between the Town and the Boat Club. In conjunction with this proposed amendment to the lease, a question has been raised as to whether or not the provisions of Connecticut General Statutes §7-131n would be applicable. For the reasons I will outline below, it is my opinion that said statute is not applicable.

I have reviewed the legislative history of the statute. I believe this history is helpful in evidencing the intent and purpose of the legislation. The initial statute was adopted in 1975 as what was known as House Bill 7612 which became Public Act 534. It has been amended once in 1977 by what was known as House Bill 5826 and which became Public Act 172.

The history of the bill at the committee level is not entirely clear. Based on my review of documents from the Environmental Committee, it appears that the bill was brought about as a result of parkland in Trumbull being taken for the purpose of extending a state highway. This became troubling to a number of elected representatives who then proposed this concept.

On introducing the bill on the House Floor, Rep. Thom Serrani summarized the bill by stating it would call for any municipality to replace with comparable land any park or recreational or open space that was taken for highway or other purposes.

Rep. Villano from New Haven argued for the bill and talked of a problem in his town where the city was taking parkland. He talked about a scenario when the highway department went through and took what was called City Point Park. He talked about a scenario where a park was taken and replaced with Hillhouse High School. He talked about a scenario where a park was taken and replaced with Wilbur Cross High School.

The statute was then amended in 1977. The Environmental Committee in 1977 talked of land being taken to be used for an industrial park. The concern at that time was that the existing bill did not go far enough to describe and give appropriate notice of the land that would replace the parkland. The 1977 amendment required the municipality to describe the land to be substituted in lieu of parkland so that at a public hearing people could more appropriately discuss the issue.

The conclusion I draw from the legislative history is that the statute was intended to apply in those situations where land used for recreation, open space and parks was being taken and used for highway or other purposes different from park, recreational or open space. In this situation, the land that is being taken has been used for recreational purposes and will continue to be used for recreational purposes. There will be some limitation in the sense that it will no longer be open to each and every Darien resident. It will be used by those Darien residents who are members of the Darien Boat Club. However, it had been used for recreational purposes, and it will continue to be used for recreational purposes. In return for the limitation on use, the Town has received the benefits and services provided by the Boat Club which would otherwise have to be paid for by the Town. Section 7-131n was not intended to and in my opinion does not apply to this situation. There may be many reasons why an individual will vote against the proposed lease amendment. I do not believe that §7-131n is or ought to be one of those.

In conjunction with my analysis and in coming to my conclusion, I have also reviewed the existing lease. There are certain aspects of the lease that are considered and are factored into my opinion.

The agreement in question was entered into in May of 1987. There are certain provisions which are factored into my opinion.

- The existing lease provides that the Boat Club will be open to and restricted to families residing in Darien.
- The initiation fee for a new member and the annual dues charged by the corporate entity shall be approved by the Board of Selectmen.
- No by-laws or rules governing the use of said premises shall be adopted until approved by the Board of Selectmen.
- Any rules, any by-laws, any amendments required by the Board of Selectmen will be adopted by the corporation.
- Before any work in excess of \$5,000.00 is commenced at the site, the corporation will submit it to the Board of Selectmen for its review and approval.
- Within thirty (30) days following the completion of any improvements, the corporation will cause a certificate containing a brief description of improvements and the actual cost submitted to the Board of Selectmen. The Board of Selectmen shall have the right to have said certificate reviewed by town auditors.
- If, in the sole discretion of the Board of Selectmen, the Town requires the premises either to operate a marina or for any other municipal purposes including the sale of the premises, it may terminate this lease upon six (6) months notice to the corporation.
- By April 1st of each year, the corporation shall submit to the Board of Selectmen a written report of the corporation's activities during the preceding calendar year.

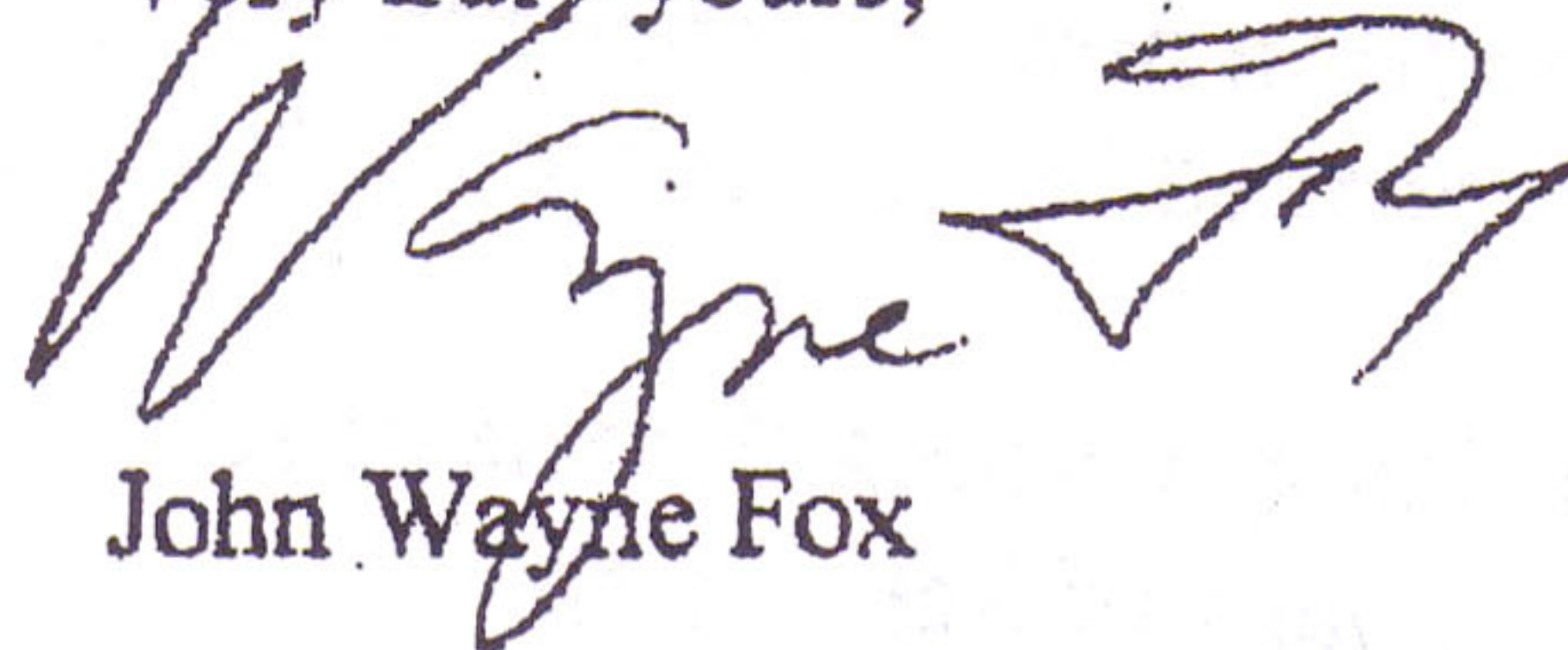
My point in outlining specific provisions in the lease is to emphasize the fact that although this is a twenty (20) year lease, the Town retains significant control and authority over the property. In addition, it has the right to take the property back on very short notice. It is not a scenario where as discussed in the legislative history of the bill the property is being turned over to a private developer for an industrial park, turned into

a public highway or turned into a high school. The recreation use is not being lost, and the Town still controls the property.

As always, it is not my intention or desire to take a position on whether or not the lease ought to be amended or approved. It is my opinion that §7-131n is not applicable and should not be applicable to the decision making process involving this lease amendment.

As always, I would be happy to speak and/or meet with you at your convenience.

Very truly yours,



John Wayne Fox

JWF:cmj

cc; John N. Crary

Linda Santarella

Cheryl Russell